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SENATE BILL 2867 By  
Springer

HOUSE BILL 2971  
By Jackson

AN ACT to amend Tennessee Code Annotated, Section 50-6-128;  
Section 50-6-206; Title 56, Chapter 3, Part 1 and Section  
71-5-117, relative to medical assistance subrogation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-5-117, is amended by designating the existing subsection (d) as (d)(1) and by adding the following:

(2) Any settlement of a claim under workers compensation coverage, a health benefit plan as defined in §56-7-2203(13)(A) or an accident and sickness policy shall include a certification that the insurance carrier or employer, if self-insured, determines, in due diligence, that the state did not have a right of subrogation recovery or shall include proper payment of the state's claim. The insurance carrier or self-insured employer shall have a duty to notify the TennCare Bureau or any successor agency if it determines a possible subrogation interest exists. In the event an insurance carrier or self-insured employer settles such claim without a due diligence search or notification, it shall be liable to the state for the amount of the state's claim plus interest accruing from the date the carrier or employer knew or should have discovered the state's claim.

SECTION 2. Tennessee Code Annotated, Section 50-6-128, is amended by designating the existing section as (a) and by adding the following:

(b) The provisions of subsection (a) shall also apply to an employer who knowingly, willfully and intentionally causes medical services to be provided under the state's medical assistance program, under §71-5-117, when the employer knew the claim arose out of a compensable work-related injury.

SECTION 3. Tennessee Code Annotated, Section 50-6-206, is amended by adding the following as a new subsection:

(-) Any settlement under this section should include a certification that the insurance carrier or employer, if self-insured, determined, in due diligence, that the state did not have a right of subrogation recovery under §71-5-117 in the settlement, or should include proper payment of the state's subrogation interest.

SECTION 4. Tennessee Code Annotated, Title 56, Chapter 3, Part 1, is amended by adding the following new section:

(-)(a) Insurance companies providing insurance coverage under a health benefit plan as defined in §56-7-2203(13)(A), an accident and sickness policy, or a workers compensation plan or policy shall include a certification in any settlement that the company determines, in due diligence, that the state did not have a right of subrogation recovery in the settlement. The insurance company shall have a duty to notify the TennCare Bureau or any successor agency if it determines a possible subrogation interest exists.

( b) In the event an insurance company settles a claim under this section without a due diligence search or notification, it shall be liable to the state for the amount of the state's claim plus interest to accrue from the date the company knew or should have discovered the state's claim.

SECTION 5. This act shall apply to any claim or settlement pending at the time the act becomes effective.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.